

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 18-1538V
(Not to be Published)

DURENDA WHITEHEAD and
KEYNARD SHAWTELL JOHNSON, SR.,
on behalf of KSJ, JR,

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Chief Special Master Corcoran

Filed: February 27, 2024

Julius Vincent Cook, Cook & Tolley, LLP, Athens, GA, for Petitioner.

Zoe Wade, U.S. Dep't of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 4, 2018, Durenda Whitehead and Keynard Shawtell Johnson filed a petition on behalf of their minor son, K.S.J., Jr. (“K.J.”) seeking compensation under the National Vaccine Injury Compensation Program.² (ECF No. 1). Petitioners alleged that K.J. suffered vaccine-induced seizures and encephalopathy as a result of receiving the measles, mumps, rubella, and varicella vaccine on January 17, 2017. Petition at 1. Alternatively, they alleged that receipt of

¹ Because this decision contains a reasoned explanation for my actions in this case, I will post it on the United States Court of Federal Claims website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole decision will be available to the public. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

several vaccines ((including the influenza, hepatitis A, diphtheria, tetanus, acellular pertussis, hepatitis B, inactivated polio vaccine, haemophilus influenza type B, and pneumococcal conjugate (“PCV12”) vaccines) on January 17, 2017 caused K.J. to suffer the “activation of his SLC19A3 gene variant” leading him to experience an “SLC19A3-related encephalopathy.” Petitioner’s Prehearing Brief, filed Nov. 19, 2020 (ECF No. 32).

I held an entitlement hearing in the matter, and found in favor of Petitioners. Ruling on Entitlement. (ECF No. 42). On January 5, 2024, Respondent filed a proffer proposing an award of compensation. (ECF No. 59). I have reviewed the file, and based upon that review I conclude that the Respondent’s proffer (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The proffer awards:

- A lump sum payment of \$1,616,572.94 representing compensation for pain and suffering (\$250,000.00), life care expenses for the first year after judgment (\$251,934.06) and future lost earnings (\$1,114,638.88), in the form of a check payable to Petitioners as guardians/conservators of K.J.’s estate (see terms in the attached Proffer); and
- An amount sufficient to purchase an annuity contract to provide payments for the items in the life care plan, as described in the attached proffer.

Proffer at II. These amounts represent compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which Petitioners are entitled.

The Proffer also specifies that:

“No payments shall be made until petitioners provide respondent with documentation establishing that they have been appointed as the guardian(s)/conservator(s) of K.J.’s estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of K.J., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of K.J. upon submission of written documentation of such appointment to the Secretary.”

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioners, in accordance with the forementioned terms (including the guardianship

requirements). In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court is directed to enter judgment herewith.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

DURENDA WHITEHEAD and
KEYNARD SHAWTELL JOHNSON, SR.,
on behalf of KSJ, JR.

Petitioners,

v.

SECRETARY OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Respondent.

No. 18-1537V
Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 4, 2018, Durenda Whitehead and Keynard Shawtell Johnson, Sr., (“petitioners”), on behalf of her minor son, K.S.J., Jr. (hereinafter referred to as “K.J.”), filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that as a result of receiving the measles, mumps, rubella and varicella (“MMRV”) vaccine on January 17, 2017, K.J. suffered vaccine-induced seizures and encephalopathy. Petition at 1 (ECF No. 1). In the alternative, Petitioners alleged that K.J.’s receipt of several vaccines on January 17, 2017 (including the MMRV, influenza, hepatitis A, diphtheria, tetanus, acellular pertussis, hepatitis B, inactivated polio vaccine, haemophilus influenza type B, and pneumococcal conjugate (“PCV12”) vaccines, caused him to suffer “the activation of his SLC19A3 gene variant,” leading him to experience an “SLC19A3-related encephalopathy.” Petitioners’ Prehearing Brief, filed Nov. 19, 2020 (ECF No. 32). On September 29, 2021, Chief Special Master Corcoran issued a Ruling on Entitlement in

favor of petitioners. ECF No. 42. Respondent now proffers the following regarding the amount of compensation to be awarded.¹

I. Items of Compensation

A. Life Care Items

Respondent engaged life care planner M. Virginia Walton, M.S.N., RN, FNP, CLCP, and petitioners engaged Audrey Cowart, M.Ed., CRC, LPC, CLCP, to provide an estimation of K.J.'s future vaccine-injury related needs. For the purposes of this proffer, the term "vaccine related" is as described in the Special Master's September 29, 2021, Ruling on Entitlement. All items of compensation identified in the life care plan are supported by the evidence and are illustrated by the chart entitled Appendix A: Items of Compensation for K.J., attached hereto as Tab A.²

Petitioners agree.

B. Lost Future Earnings

The parties agree that based upon the evidence of record, K.J. will not be gainfully employed in the future. Therefore, respondent proffers that K.J. should be awarded lost future earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B). Respondent proffers that the appropriate award for K.J.'s lost future earnings is \$1,114,638.88. Petitioners agree.

¹ The parties have no objection to the amount of the proffered award of damages. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(f), to seek review of the Chief Special Master's September 29, 2021 Ruling on Entitlement, finding petitioners entitled to an award under the Vaccine Act. This right accrues following the issuance of the damages decision.

² The chart at Tab A illustrates the annual benefits provided by the life care plan. The annual benefit years run from the date of judgment up to the first anniversary of the date of judgment, and every year thereafter up to the anniversary of the date of judgment.

C. Pain and Suffering

Respondent proffers that K.J. should be awarded \$250,000.00 in actual pain and suffering. See 42 U.S.C. § 300aa-15(a)(4). Petitioners agree.

II. Form of the Award

The parties recommend that the compensation provided to K.J. should be made through a combination of lump sum payments and future annuity payments as described below, and request that the Special Master's decision and the Court's judgment award the following:³

A. A lump sum payment of \$1,616,572.94, representing compensation for life care expenses in the first year after judgment (\$251,934.06), lost future earnings (\$1,114,638.88), and pain and suffering (\$250,000.00), in the form of a check payable to petitioners as guardian(s)/conservator(s) of the estate of K.J., for the benefit of K.J. No payments shall be made until petitioners provide respondent with documentation establishing that they have been appointed as the guardian(s)/conservator(s) of K.J.'s estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of K.J., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of K.J. upon submission of written documentation of such appointment to the Secretary.

B. An amount sufficient to purchase the annuity contract,⁴ subject to the conditions described below, that will provide payments for the life care items contained in the life care plan,

³ Should K.J. die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, lost future earnings, and future pain and suffering.

⁴ In respondent's discretion, respondent may purchase one or more annuity contracts from one or more life insurance companies.

as illustrated by the chart at Tab A attached hereto, paid to the life insurance company⁵ from which the annuity will be purchased.⁶ Compensation for Year Two (beginning on the first anniversary of the date of judgment) and all subsequent years shall be provided through respondent's purchase of an annuity, which annuity shall make payments directly to petitioners only so long as K.J. is alive at the time a particular payment is due. At the Secretary's sole discretion, the periodic payments may be provided to petitioners in monthly, quarterly, annual or other installments. The "annual amounts" set forth in the chart at Tab A describe only the total yearly sum to be paid to petitioners and do not require that the payment be made in one annual installment.

1. Growth Rate

Respondent proffers that a four percent (4%) growth rate should be applied to all non-medical life care items, and a five percent (5%) growth rate should be applied to all medical life care items. Thus, the benefits illustrated in the chart at Tab A that are to be paid through annuity payments should grow as follows: four percent (4%) compounded annually from the date of

⁵ The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following rating organizations:

- a. A. M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;
- c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;
- d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

⁶ Petitioners authorize the disclosure of certain documents filed by the petitioners in this case consistent with the Privacy Act and the routine uses described in the National Vaccine Injury Compensation Program System of Records, No. 09-15-0056.

judgment for non-medical items, and five percent (5%) compounded annually from the date of judgment for medical items. Petitioners agree.

2. Life-Contingent Annuity

The petitioners will continue to receive the annuity payments from the Life Insurance Company only so long as K.J. is alive at the time that a particular payment is due. Written notice shall be provided to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of K.J.'s death.

3. Guardianship

No payments shall be made until petitioners provide respondent with documentation establishing that they have been appointed as the guardian(s)/conservator(s) of K.J.'s estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of K.J., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of K.J. upon submission of written documentation of such appointment to the Secretary.

III. Summary of Recommended Payments Following Judgment

- | | | |
|----|--|------------------------|
| A. | Lump Sum paid to the court-appointed guardian(s)/conservator(s) of the estate of K.J. for the benefit of K.J.: | \$ 1,616,572.94 |
| B. | An amount sufficient to purchase the annuity contract described above in section II. B. | |

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D’ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

LARA A. ENGLUND
Assistant Director
Torts Branch, Civil Division

/s/Zoë R. Wade
ZOE R. WADE
Trial Attorney
Torts Branch, Civil Division
U. S. Department of Justice
P.O. Box 146, Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-4118
Email: zoe.wade@usdoj.gov

Dated: January 5, 2024

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Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Lump Sum Compensation Year 1	Compensation Years 2-4	Compensation Year 5	Compensation Year 6	Compensation Year 7	Compensation Year 8	Compensation Year 9	Compensation Year 10
				2024	2025-2027	2028	2029	2030	2031	2032	2033
Aug Comm Device Maintenance & Repair	4%										
Accessories for Mobility Equip	4%			488.00	97.60	97.60	97.60	97.60	97.60	97.60	97.60
AAC Battery Charger	4%			99.00	19.80	19.80	19.80	19.80	19.80	19.80	19.80
Therapeutic Summer Camp	4%			567.00	567.00	567.00	567.00	567.00	567.00	567.00	567.00
Adaptice Tricylee	4%			2,070.00							
Accessible Van	4%			49,535.00	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50
Portable Ramps	4%			443.00	44.30	44.30	44.30	44.30	44.30	44.30	44.30
Personal Care Attendant	4%		M	50,172.50	50,172.50	50,172.50	50,172.50	50,172.50	50,172.50	50,172.50	50,172.50
Home Modification	4%			117,014.00							
Housekeeping Services	4%		M								
Personal Care Aide/Driver Services	4%		M								
Personal Care Aide in Facility	4%		M								
Facility	4%		M								
Lost Future Earnings				1,114,638.88							
Pain and Suffering				250,000.00							
Annual Totals				1,616,572.94	78,589.44	78,812.09	78,812.09	79,153.25	79,283.69	79,414.13	82,371.23

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of K.J. for the benefit of K.J., for lost future earnings (\$1,114,638.88), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$251,934.06): \$1,616,572.94.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.

Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Compensation Year 11	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Years 15-16	Compensation Year 17	Compensation Year 18	Compensation Year 19
				2034	2035	2036	2037	2038-2039	2040	2041	2042
Insurance Premiums	5%		M	4,721.28	4,866.84	5,017.44	5,017.44	5,017.44	5,037.36	5,137.80	5,258.16
Insurance Maximum out of Pocket	5%			5,800.00	5,800.00	5,800.00	5,800.00	5,800.00	5,800.00	5,800.00	5,800.00
Medicare Part B Premium	5%		M								
Medicare Part B Deductible	5%										
Medigap	5%		M								
Physiatrist	5%	*									
Neurologist	5%	*									
Mileage: Physiatrist/ Neurologist	4%			25.44	25.44	25.44	12.72	12.72	12.72	12.72	12.72
Orthopedist	5%	*									
Mileage: Orthopedist	4%			6.36	6.36	6.36	0.91	0.91	0.91	0.91	0.91
Internist	5%	*									
Dentist - Sealants	5%										
Dentist	5%	*									
Neuropsychologist	5%										
Mileage: Neuropsychologist	4%										
Physical Therapy Evaluation	4%	*									
Occupational Therapy Evaluation	4%	*									
WC Seating Eval	4%			198.00	198.00	198.00	195.00	48.75	48.75	48.75	48.75
SLP Evaluation	4%	*									
SLP Feeding Evaluation	4%	*									
Physical Therapy	4%		M	700.00	700.00	700.00					
Occupational Therapy	4%		M	700.00	700.00	700.00					
Speech Therapy	4%										
Nutritional Assessment	4%	*									
SLP Feeding Therapy	4%	*									
Aquatic Therapy	4%		M	1,000.00	1,000.00	1,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00
Hippo Therapy	4%			720.00	720.00	720.00					
Assistive Tech Training	4%						3,190.00	638.00	638.00	638.00	638.00
Case Management	4%		M	4,560.00	4,560.00	4,560.00	1,710.00	1,710.00	1,710.00	1,710.00	1,710.00

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Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Compensation Year 11	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Years 15-16	Compensation Year 17	Compensation Year 18	Compensation Year 19
				2034	2035	2036	2037	2038-2039	2040	2041	2042
Aug Comm Device Maintenance & Repair	4%						1,448.00	289.60	289.60	289.60	289.60
Accessories for Mobility Equip	4%			97.60	97.60	97.60	97.60	97.60	97.60	97.60	97.60
AAC Battery Charger	4%			19.80	19.80	19.80	19.80	19.80	19.80	19.80	19.80
Therapeutic Summer Camp	4%			567.00	567.00	567.00					
Adaptice Tricylce	4%										
Accessible Van	4%			4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50
Portable Ramps	4%			44.30	44.30	44.30	44.30	44.30	44.30	44.30	44.30
Personal Care Attendant	4%		M	50,172.50	50,172.50	50,172.50					
Home Modification	4%										
Housekeeping Services	4%		M				4,644.00	4,644.00	4,644.00	4,644.00	4,644.00
Personal Care Aide/Driver Services	4%		M				267,180.00	267,180.00	267,180.00	267,180.00	267,180.00
Personal Care Aide in Facility	4%		M								
Facility	4%		M								
Lost Future Earnings											
Pain and Suffering											
Annual Totals				79,695.05	79,840.61	79,991.21	301,129.79	297,273.14	297,293.06	297,393.50	299,647.86

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of K.J. for the benefit of K.J., for lost future earnings (\$1,114,638.88), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$251,934.06): \$1,616,572.94.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.

[illegible]

[illegible]

Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Compensation Year 20	Compensation Year 21	Compensation Year 22	Compensation Year 23	Compensation Year 24	Compensation Year 25	Compensation Year 26	Compensation Year 27
				2043	2044	2045	2046	2047	2048	2049	2050
Aug Comm Device Maintenance & Repair	4%			289.60	289.60	289.60	289.60	289.60	289.60	289.60	289.60
Accessories for Mobility Equip	4%			97.60	97.60	97.60	97.60	97.60	97.60	97.60	97.60
AAC Battery Charger	4%			19.80	19.80	19.80	19.80	19.80	19.80	19.80	19.80
Therapeutic Summer Camp	4%										
Adaptice Tricylce	4%										
Accessible Van	4%			4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50
Portable Ramps	4%			44.30	44.30	44.30	44.30	44.30	44.30	44.30	44.30
Personal Care Attendant	4%		M								
Home Modification	4%										
Housekeeping Services	4%		M	4,644.00	4,644.00	4,644.00					
Personal Care Aide/Driver Services	4%		M	267,180.00	267,180.00	267,180.00					
Personal Care Aide in Facility	4%		M				111,325.00	111,325.00	111,325.00	111,325.00	111,325.00
Facility	4%		M				52,196.00	52,196.00	52,196.00	52,196.00	52,196.00
Lost Future Earnings											
Pain and Suffering											
Annual Totals				298,065.24	298,225.80	298,306.08	189,996.44	190,116.92	190,192.16	190,272.44	190,312.52

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of K.J. for the benefit of K.J., for lost future earnings (\$1,114,638.88), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$251,934.06): \$1,616,572.94.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.

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Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Compensation Year 28	Compensation Year 29	Compensation Year 30	Compensation Year 31	Compensation Year 32	Compensation Year 33	Compensation Year 34	Compensation Years 35-56
				2051	2052	2053	2054	2055	2056	2057	2058-2079
Aug Comm Device Maintenance & Repair	4%			289.60	289.60	289.60	289.60	289.60	289.60	289.60	289.60
Accessories for Mobility Equip	4%			97.60	97.60	97.60	97.60	97.60	97.60	97.60	97.60
AAC Battery Charger	4%			19.80	19.80	19.80	19.80	19.80	19.80	19.80	19.80
Therapeutic Summer Camp	4%										
Adaptice Tricylce	4%										
Accessible Van	4%			4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50	4,953.50
Portable Ramps	4%			44.30	44.30	44.30	44.30	44.30	44.30	44.30	44.30
Personal Care Attendant	4%		M								
Home Modification	4%										
Housekeeping Services	4%		M								
Personal Care Aide/Driver Services	4%		M								
Personal Care Aide in Facility	4%		M	111,325.00	111,325.00	111,325.00	111,325.00	111,325.00	111,325.00	111,325.00	111,325.00
Facility	4%		M	52,196.00	52,196.00	52,196.00	52,196.00	52,196.00	52,196.00	52,196.00	52,196.00
Lost Future Earnings											
Pain and Suffering											
Annual Totals				190,352.72	190,392.80	190,433.00	190,513.28	190,593.56	190,713.92	190,829.36	184,719.04

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of K.J. for the benefit of K.J., for lost future earnings (\$1,114,638.88), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$251,934.06): \$1,616,572.94.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.

Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Compensation Year 57 2080	Compensation Years 58-Life 2081-Life
Insurance Premiums	5%		M		
Insurance Maximum out of Pocket	5%				
Medicare Part B Premium	5%		M	2,096.40	2,096.40
Medicare Part B Deductible	5%			240.00	240.00
Medigap	5%		M	2,052.00	2,052.00
Physiatrist	5%	*			
Neurologist	5%	*			
Mileage: Physiatrist/ Neurologist	4%			12.72	12.72
Orthopedist	5%	*			
Mileage: Orthopedist	4%			0.91	0.91
Internist	5%	*			
Dentist - Sealants	5%				
Dentist	5%	*			
Neuropsychologist	5%				
Mileage: Neuropsychologist	4%				
Physical Therapy Evaluation	4%	*			
Occupational Therapy Evaluation	4%	*			
WC Seating Eval	4%			48.75	48.75
SLP Evaluation	4%	*			
SLP Feeding Evaluation	4%	*			
Physical Therapy	4%		M		
Occupational Therapy	4%		M		
Speech Therapy	4%				
Nutritional Assessment	4%	*			
SLP Feeding Therapy	4%	*			
Aquatic Therapy	4%		M	2,000.00	
Hippo Therapy	4%				
Assistive Tech Training	4%			638.00	638.00
Case Management	4%		M	1,710.00	1,710.00

Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Compensation Year 57 2080	Compensation Years 58-Life 2081-Life
X-rays	5%	*			
Barium Swallow	5%	*			
Baclofen	5%	*		1,204.50	1,204.50
Vitamin B1	4%			87.60	87.60
Biotin	4%			722.70	722.70
Albuterol	5%	*		284.10	284.10
Pediasure	4%		M	1,569.50	1,569.50
Liquid Thickener Box - School	4%		M	207.00	207.00
Liquid Thickener Canister - Home	4%		M	156.00	156.00
Undergarments	4%		M	740.95	740.95
Wipes	4%		M	131.40	131.40
Adaptive Aids	4%			150.00	150.00
Toilet Chair	4%			41.60	41.60
Standing Frame	4%	*			
Heel Protector Pads	4%			25.00	25.00
Gait Trainer	4%			261.33	261.33
Manual Wheelchair	4%	*			
Cushion w/Cover	4%			94.33	94.33
Manual Transport Wheelchair	4%			69.57	69.57
Wheelchair Maintenance	4%	*			
Shower Wheelchair	4%			395.20	395.20
Portable Patient Lift	4%	*			
Slings for Lift	4%				
Hospital Bed	4%	*			
Bilateral Wrist/ Hand Orthoses	4%	*			
KAFOs	4%	*			
Alternative Aug Comm Device	4%	*			
Aug Comm Device Accessories	4%			393.00	393.00

Appendix A: Items of Compensation for K.J.

ITEMS OF COMPENSATION	G.R	*	M	Compensation Year 57 2080	Compensation Years 58-Life 2081-Life
Aug Comm Device Maintenance & Repair	4%			289.60	289.60
Accessories for Mobility Equip	4%			97.60	97.60
AAC Battery Charger	4%			19.80	19.80
Therapeutic Summer Camp	4%				
Adaptice Tricylee	4%				
Accessible Van	4%			4,953.50	4,953.50
Portable Ramps	4%			44.30	44.30
Personal Care Attendant	4%		M		
Home Modification	4%				
Housekeeping Services	4%		M		
Personal Care Aide/Driver Services	4%		M		
Personal Care Aide in Facility	4%		M	111,325.00	111,325.00
Facility	4%		M	52,196.00	52,196.00
Lost Future Earnings					
Pain and Suffering					
Annual Totals				184,258.36	182,258.36

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of K.J. for the benefit of K.J., for lost future earnings (\$1,114,638.88), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$251,934.06): \$1,616,572.94.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.